

Liability, Insurance and Risk Management Issues for Volunteer Programs

(Carla Lehn, 2004)

In today's litigious society, it is important to understand the risks faced in your volunteer program—for both your volunteers and your organization. Equally important is taking the steps that will minimize these risks, outlined below.

What protections are there? What should you know about this topic? The three areas to be informed about are:

- o protections afforded under law
- o internal policies
- o insurance

WHAT IS THE LAW?

In 1997, President Clinton signed the Volunteer Protection Act which provides broad protection from personal liability for all volunteers serving with nonprofits and governmental entities. In the briefest of nutshells, the law protects volunteers from liability if the volunteer committed negligent acts or omissions while acting within the scope of their volunteer responsibilities. The law does not protect volunteers if the act or omission was caused by willful or criminal misconduct, gross negligence, reckless misconduct or a conscious, flagrant indifference to the rights or safety of the individual harmed. It also does not include protection when harm is caused by a volunteer operating any kind of vehicle.

California Corporations Code Section 5047.5 protects officers and directors of nonprofit corporations who serve without compensation from liability for negligent acts or omissions only if the organization maintains specified levels of general liability insurance.

Unfortunately, the fact that a federal law exists on this subject has contributed to a false impression that volunteers and organizations are immune from suit. To the contrary, many volunteers remain fully liable for any harm they cause, and all volunteers remain liable for some actions. No law protects your volunteers if they are guilty of gross negligence, recklessness, or willful and wanton misconduct. And, no law provides protection for the organization itself.

Therefore, your best protections are the two that your organization has control over—internal policies and, where applicable, insurance coverage.

INTERNAL POLICIES AND PROCEDURES

One way to provide protection for your organization and your volunteers is to establish written internal policies and procedures that help to minimize risk. Having the policies on a shelf is not good enough, however. You must be sure to communicate both policy and procedures to your volunteers and staff.

First, note that the laws only provide protection for volunteers who are “acting within the scope of their responsibilities.” This means that having up-to-date volunteer job descriptions, and ensuring that volunteers are carefully screened and well trained becomes even more important.

Risk management is the process of identifying potential risks and developing policies and procedures to prevent problems. Implementing preventative techniques can go a long way toward controlling the risks of injury to or by your volunteers. Manage your risk by identifying potential problem areas and work with the risk manager in your jurisdiction to develop prevention policies and procedures. Then, be sure volunteers and staff are trained on procedures they are expected to follow.

INSURANCE

Finally, remember that the law and internal policies are not a replacement for complete insurance coverage. Remember the requirement in the California law above? Check to ensure that appropriate levels of insurance are carried, and that the policies specifically include coverage for volunteers.

SUMMARY

Volunteers will continue to be a valuable resource. Understanding what protection is available through the law, developing internal policies and procedures to minimize risk, and making informed choices about insurance coverage can shield your volunteers and your organization from significant losses.

BIBLIOGRAPHY

McCurley, Steve, Volunteer Management Policies (Downers Grove, IL: Heritage Arts Publishing, 1990).

_____, No Surprises: Harmonizing Risk and Reward in Volunteer Management – 3rd Edition (Washington D.C.: The Nonprofit Risk Management Center, 2004).